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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT TACOMA

10 JOSE RENE LOPEZ,
11 Plaintiff,

12 v.

13 UNKNOWN,
14 Defendants.

Case No. 08-5027 FDB/KLS

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

15 Before the Court is Plaintiff's motion for appointment of counsel. (Dkt. # 9). Having
16 reviewed the motion and balance of the record, the Court finds for the reasons stated below that
17 Plaintiff's motion should be denied.

18 **I. DISCUSSION**

19 There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983.
20 Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding
21 *in forma pauperis*, the court may do so only in exceptional circumstances. *Wilborn v. Escalderon*,
22 789 F.2d 1328, 1331 (9th Cir. 1986); *Franklin v. Murphy*, 745 F.2d 1221, 1236 (9th Cir. 1984);
23 *Aldabe v. Aldabe*, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires
24 an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to
25 articulate his claims *pro se* in light of the complexity of the legal issues involved. *Wilborn*, 789
26 F.2d at 1331. Neither of these factors is dispositive and both must be viewed together before
27 reaching a decision on request of counsel under Section 1915(d). *Id.*

1 Although Plaintiff has been ordered to show cause why his complaint should not be
2 dismissed for failure to state a claim and instructed that he should name specific defendants and
3 allege more specific facts (Dkt. # 7), Plaintiff has not demonstrated that he cannot articulate his
4 claims, that the issues in this case are complex or that there is a likelihood of success on the merits.
5 The difficulties claimed by Plaintiff are of the type which many pro se litigants encounter and do
6 not indicate exceptional factors. The Court will provide further guidance and Plaintiff will be given
7 a second deadline to submit an acceptable complaint before a recommendation is made to dismiss
8 for failure to state a claim.

9 The record reflects that Plaintiff is not a stranger to the legal system. Plaintiff has proceeded
10 pro se before and just recently sought discretionary review of his underlying judgment and sentence
11 from the Washington Supreme Court. (Dkt. # 8, Attachment at p. 2, In Re Personal Restraint
12 Petition of Jose Rene Lopez, Court of Appeals No. 25750-9-III).

13 Plaintiff also claims to be a mental patient who wants to be released from the Washington
14 State prison system to a mental institution, however, he offers no basis for such a claim or any
15 evidence that any medical condition prevents him from presenting his claims.

16 Accordingly, the Court finds that counsel is not necessary in this case and Plaintiff's motion
17 to appoint counsel (Dkt. # 9) is **DENIED**.

18 The Clerk is directed to send copies of this Order to Plaintiff.

19 DATED this 7th day of March, 2008.

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23 Karen L. Strombom
24 United States Magistrate Judge
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